

Date

Honorable Annette M. Fontana
Lafourche Parish Clerk of Court
P.O. Box 818
Thibodaux, Louisiana 70302

Re: Ethics Board Docket No. 2021-220

Dear Ms. Fontana:

The Louisiana Board of Ethics, at its May 7, 2021 meeting, considered your request for the approval of a Disqualification Plan regarding Angela Clement, Alexis Clement, and Alissa Clement, employees of the Lafourche Parish Clerk of Court.

FACTS PROVIDED

You stated that Angela Clement has been employed with the Lafourche Parish Clerk of Court since October 2, 1995. She first started working in the Mortgage and Conveyance Department, and in 1999, she also began providing services in the Accounting Department. In 2016, she was given additional responsibilities and became the supervisor of the Mortgage and Conveyance Department. Based on her education, training and work experience, you stated that the Louisiana Clerk's Association has designated her as a Certified Deputy Clerk. You stated that you are seeking to promote Angela Clement to the position of Chief Deputy Clerk of Court.

Alissa Clement and Alexis Clement are the biological daughters of Angela Clement. On May 1, 2017, both daughters were hired as part-time college students working in the Criminal and Civil Departments processing documents and filing records. During this time, the girls were supervised by Gail Albert, Administrative Assistant to the Clerk of Court, and thereafter, they were supervised by Kiley Kliebert, Criminal Department Supervisor, who was responsible for supervising all part-time employees in addition to the Criminal Department.

In May of 2021, both girls will graduate from Nicholls State University, Alissa with an Accounting Degree who will continue to work towards her MBA.

You stated that Alissa is currently working in the Accounting Department. Since the term of the prior Clerk of Court, which continued when you became Clerk of Court in 2016, the Accounting Department and its employees have been directly supervised by the Clerk of Court.

Alexis is currently working as a minute clerk assigned to a particular judge. In the past, you stated minute clerks were under the supervision of a supervisor and the Chief Deputy Clerk. However, since you have been Clerk of Court beginning in 2016, you have not hired a Chief Deputy Clerk. As such, since 2016, you have supervised the minute clerks together with the assigned judge. You stated that when Angela Clement is promoted to Chief Deputy Clerk, she may supervise minute clerks.

In preparation of her promotion to Chief Deputy Clerk of Court, the Lafourche Clerk of Court's Office has prepared a Disqualification Plan that will remove Ms. Clement from any potential participation in her daughters' employment by placing them under the direct supervision of you, the Clerk of Court. In the event you are not available, Alexis Clement will be supervised by Criminal Department Supervisor or the Civil Department Supervisor, and Alissa Clement will be supervised by the Elections and Jury Supervisor. All interested parties have signed the Disqualification Plan.

LAWS

La. R.S. 42:1119A states that no member of the immediate family of an agency head shall be employed in his agency.

La. R.S. 42:1119C(2) provides that the provisions of this Section shall not prohibit the continued employment of any public employee nor shall it be construed to hinder, alter, or in any way affect normal promotional advancements for such public employee where a member of public employee's immediate family becomes the agency head of such public employee's agency, provided that such public employee has been employed in the agency for a period of at least one year prior to the member of the public employee's immediate family becoming the agency head.

La. R.S. 42:1112B(1) states that no public servant shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any member of his immediate family has a substantial economic interest.

La. R.S. 42:1112C allows a disqualification plan to be developed in accordance with rules adopted by the Board to remove a public servant from participating in transactions that would otherwise present violations of Section 1112 of the Code.

Rule 1401. Application

A. Every public employee, excluding an appointed member of any board or commission, shall disqualify himself from participating in a transaction involving the governmental entity when a violation of Section 1112 of the Code of Governmental Ethics would result.

Rule 1402. Reporting Requirements; General

A. Every public employee, except an agency head, upon determining that he may be compelled to participate in a transaction involving the governmental entity in violation of Section 1112 of the Code of Governmental Ethics, shall immediately, and prior to such participation, report the details of the transaction, in writing, to: 1. his immediate supervisor, 2. his agency head, and 3. to the board.

B. Every agency head, upon determining that he may be compelled to participate in a transaction involving the governmental entity in violation of Section 1112 of the Code of Governmental Ethics, shall immediately, and prior to such participation, report the details of the transaction, in writing, to his appointing authority and to the board.

Rule 1403. Reporting Requirements; Impact on Governmental Entity and Alternative Measures

A. Upon receipt of such written communication from the public employee, the immediate supervisor of the public employee, as well as the agency head (or appointing authority, if applicable), shall immediately, and prior to such participation by the public employee, provide the board, in writing, with a report concerning the impact on the efficient operation of the governmental entity of the potential participation by the public employee and shall provide the board with reports as to alternative measures available to the public employee to prevent participation in the prohibited transaction.

Rule 1404. Action by the Board

A. The proposed disqualification procedure shall be implemented by the public employee and his immediate supervisor, and the public employee shall otherwise refrain from participating in the potential transaction until such time as the board has, in writing, provided the public employee, his immediate supervisor, and his agency head with instructions as to the procedure to avoid participation in the prohibited transaction.

CONCLUSION

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics would not prohibit the continued employment of Alissa Clement and Alexis Clement after the promotion of Angela Clement, their biological mother, to the position of Chief Deputy Clerk of Court for the Lafourche Parish Clerk of Court since both Alissa Clement and Alexis Clement have been employed for more than one year prior to their mother's promotion.

The Board concluded, and also instructed me to inform you, that the Disqualification Plan submitted by you as the Clerk of Court of Lafourche Parish complies with La. R.S. 42:1112C and Chapter 14 of the Rules for the Louisiana Board of Ethics. Therefore, the Board instructed me to advise you that it has approved the Disqualification Plan.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

Tracy M. Barker
For the Board